

## FOR 2015 BUDGETS

**TO:** County, City, and Town Fiscal Bodies

**FROM:** Micah G. Vincent, Commissioner

**SUBJECT:** Guidelines for Binding Adoption of Other Taxing Units' Budgets, Rates, and Levies for the 2015 Budget Year

**DATE:** June 24, 2014

The purpose of this memorandum is to explain the process by which certain fiscal bodies must adopt the budgets, rates, and levies of other units pursuant to IC 6-1.1-17-20 for the 2015 budget year and to prescribe the manner in which the corresponding advertisements and adoptions must take place.

On March 26, 2014, Governor Pence signed into law House Enrolled Act 1266 ("HEA 1266"). HEA 1266 includes provisions that transition the process of advertising political subdivision budgets and levies from a newspaper system to an online system through the Department of Local Government Finance's ("Department") Gateway website. However, for 2015 only, political subdivisions will also have to publish their budgets and levies in the newspaper in the manner required in past budget years. A political subdivision that does not submit the required information to Gateway in the manner prescribed by the Department shall have its most recent annual appropriations and annual tax levy continued for the ensuing budget year.

HEA 1266 requires that taxpayers be able to search their budget and levy notices by address on the Gateway website and that the Department must provide a telephone number by which a taxpayer can call the Department and request to have budget, levy and meeting notices sent to them by mail.

NOTE: To avoid confusion, the unit that adopts the budgets, rates, and levies for another unit will be called the "adopting body" in this document. The unit that has its budgets, rates, and levies adopted by another unit will be called the "submitting unit" in this document.

### **Identifying Appropriate Adopting Body**

Under IC 6-1.1-17-20, taxing units whose governing bodies are comprised of a majority of non-elected individuals must have their budgets, rates, and levies adopted by the fiscal body of a specified unit (IC 6-1.1-17-20 does not apply to libraries or Unigov units subject to IC 36-3-6-9). An individual who qualifies to be appointed to a governing body or serves on a governing body because of the individual's status as an elected official of another taxing unit is treated as an official who was not elected to serve on the governing body.

The adopting body to which a unit must provide its budget, rate, and levy information is specified by IC 6-1.1-17-20:

1. If the assessed valuation of a taxing unit is entirely contained within a city or town: the fiscal body of that respective city or town.

## FOR 2015 BUDGETS

2. If the assessed valuation of a taxing unit is not entirely contained within a city or town, but the taxing unit was originally established by the city or town; or the majority of the individuals serving on the governing body of the taxing unit are appointed by the city or town: the fiscal body of that respective city or town.
3. If neither 1) nor 2) applies: the county fiscal body in the county where the taxing unit has the most assessed valuation.

### **Submission to the Adopting Body**

1. The unit must submit its budgets, rates, and levies to the adopting body for adoption on or before September 2 (September 1 is a holiday in 2014, so for 2014, the deadline becomes September 2). This is done by completing Forms 1, 2, 4A and 4B in Gateway Budget

### **Newspaper Requirements**

1. Both the adopting body and submitting unit should make sure that the submitting unit's advertisement of the budgets, rates, and levies appears in the newspaper(s) by September 13 (first advertisement) and September 20 (second advertisement). **Notice is the responsibility of the adopting body, but both units are penalized for a failed advertisement. Therefore, both units should verify that this is done correctly and that the advertisement is printed correctly.** The notices must be published in two newspapers published in the submitting unit. If there is only one newspaper published in the submitting unit, then publication in that newspaper alone is sufficient. If no newspaper is published in the submitting unit, the notices must be published in a newspaper that is published in the county and that circulates through the submitting unit.
2. The adopting body must make sure that the first advertisement appears in the newspaper(s) at least ten days before the public hearing. In addition, remember to account for the necessary local publication lead-time when submitting the advertisement to the local newspaper(s). In order to hold the public hearing on day ten after the first advertisement, start counting days on the day after the advertisement appears in the newspaper(s) – if the first advertisement runs on September 13, day one is September 14, and the first day the public hearing could be held is September 23.
3. Make sure the second advertisement appears in the newspaper(s) at least seven days after the first advertisement (see example in #2 for how to count days).
4. Make sure the second advertisement appears in the newspaper(s) at least three days before the public hearing (see example in #2 for how to count days).
5. In the advertisement, state the time, date, and place where the **public hearing in front of the adopting body** will be held on the budgets, rates, and levies (this is included in the Form 3). **The public hearing must be held on the advertised date and must occur no later than October 24.**

## FOR 2015 BUDGETS

6. In the advertisement, make sure the estimated budget for each fund, current levies for each fund, proposed levies for each fund, the amount of excessive levy appeals for each fund, and the estimated maximum permissible levies are each included (these are included in the Form 3).
7. In the advertisement, state the time, date, and place where the **adoption meeting** will be held in front of the adopting body. If the budget adoption cannot occur on the advertised date, the adoption meeting should be continued to another date or a new adoption meeting should be advertised. Additionally, a notice of the meeting must be posted at least 48 hours prior to the meeting. If the meeting is continued, minutes from the meeting showing the continuation need to be submitted to the Department to verify the new adoption date.
8. Keep in mind that the budget, rate, and levy **advertised** for each fund creates a maximum amount of budget, rate, and levy for that fund. Please make sure that the amount advertised is what the submitting unit proposes to have in budget and rate and receive in levy for each fund.

### **Gateway Submission Requirements**

The Department will provide a format for entering the required budget, rate, levy, and meeting information on Gateway. Adopting bodies must fill out the form in the manner prescribed by the Department's Form 3 User Guide.

Both the adopting body and submitting unit should make sure that the advertisement of the submitting unit's budgets, rates, and levies is submitted to Gateway *before* September 14 and at least ten days before the public hearing. **Notice is the responsibility of the adopting body, but both units are penalized for a failed advertisement. Therefore, both units should verify that submission is done correctly.**

1. The adopting body must submit the following information to Gateway:
  - the proposed budget for each fund;
  - current levies for each fund;
  - proposed levies for each fund;
  - the amount of excessive levy appeals for each fund; and
  - the estimated maximum permissible levies.
2. The Form 3 submitted by the adopting body must state the time, date, and place (including address) where the adopting body will hold a **public hearing** on these items. **The public hearing must be held on the advertised date.** The public hearing must occur by October 24.
3. The Form 3 submitted by the adopting body must state the time, date, and place (including address) where the adopting body will hold the **adoption meeting** on the budgets, rates, and levies. If the budget adoption cannot occur on the advertised date, the adoption meeting should be continued to another date or a new adoption meeting should be advertised. The form on Gateway should be updated with the new adoption date as soon as possible. This

## FOR 2015 BUDGETS

must be done at least 48 hours prior to the meeting. Additionally, a notice of the meeting must be posted at least 48 hours prior to the meeting. If the meeting is continued, minutes from the meeting showing the continuation need to be submitted to the Department to verify the new adoption date.

4. The Form 3 must be submitted to Gateway *before* September 14.
5. **Additionally**, the Form 3 must be submitted to Gateway at least ten days before the public hearing. In order to hold the public hearing on day ten after the first advertisement, start counting days on the day after the Form 3 first appears on Gateway – if the Form 3 is submitted to Gateway on September 1, it will post to the public site for taxpayer viewing instantaneously. Therefore, day one is September 2, and the first day the public hearing could be held is September 11.
6. If an adopting body timely submits its Form 3 to Gateway but subsequently discovers the information contains a typographical error, the adopting body may request permission from the Department to submit amended information to Gateway.

Such a request must occur not later than seven days before the public hearing on the budgets, rates, and levies. The request will be inferred from the adopting body submitting a revised Form 3. The Department will automatically give its approval by allowing an adopting body to change information other than the public hearing date.

However, if an adopting body wishes to change the public hearing date, the Department must explicitly grant permission for this change to be allowed. Adopting bodies that wish to modify the public hearing date must email [Form3@dlgf.in.gov](mailto:Form3@dlgf.in.gov) or call (888) 739-9826 to receive Department approval. The Department will not allow modifications on the public hearing date if the request is made within seven days of the public hearing.

Acknowledgment of a modified Form 3 will be posted on Gateway. Adopting bodies must communicate this change to the fiscal body of the county in which the submitting unit and adopting body are located. This communication will be triggered automatically by submitting a revised Form 3.

7. Keep in mind that the budget, rate, and levy submitted to Gateway for each fund create a maximum amount of budget, rate, and levy for that fund. Please make sure that the amount advertised is what the submitting unit proposes to have in budget and rate and receive in levy for each fund.

### **Public Hearing Requirements**

1. The adopting body will conduct the public hearing at the advertised time and location. Taxpayers must be given an opportunity to speak during the hearing. If the public hearing must be continued, the adopting body must properly continue the hearing and not adjourn.

## FOR 2015 BUDGETS

2. Ten or more taxpayers may object to a budget, rate, or levy of the submitting unit by filing an objection petition with the adopting body not more than seven days after the hearing. The
1. objection petition must specifically identify the provisions of the budget, rate, and levy to which the taxpayers object. If a petition is filed, the adopting body shall adopt with the budget a finding concerning the objections in the petition and any testimony presented at the hearing.

### **Adoption Meeting Requirements**

1. The budgets, rates, and levies must be adopted by November 3 (normally November 1 is the deadline, but November 1 falls on a Saturday in 2014) (this is done using the Form 4). Make sure that the form is signed, dated, and marked “yes” or “no” for each officer.
2. The adopting body may reduce or modify but not increase the submitting unit’s proposed budgets, rates, and levies.
3. Keep in mind that the budgets, rates, and levies **adopted** for each fund create a maximum amount of budget, levy, and rate for that fund. Please make sure that the amount adopted correctly reflects what the adopting body has set for the submitting unit.
4. Remember that there must be at least ten days between the public hearing and the adoption meeting.
5. Again, if an objection petition is filed, the adopting body must adopt findings on the objections at the adoption meeting.

### **Penalty**

1. If the appropriate adopting body fails to timely and correctly adopt the budgets, rates, and levies of the applicable submitting units, the most recent annual appropriations and annual tax levy of the city, town, or county, whichever applies, are continued for the ensuing budget year.